

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GARY STEPHENS,

Plaintiff,

vs.

Case No. 05-CV-72585
HON. GEORGE CARAM STEEH

JO ANNE B. BARNHART,
COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____/

ORDER ACCEPTING REPORT AND RECOMMENDATION (#19);
GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT;
DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, AND;
REMANDING TO THE COMMISSIONER OF SOCIAL SECURITY

This matter is before the court on the parties' cross-motions for summary judgment as to plaintiff Gary Stephens' claim for judicial review of defendant Commissioner of Social Security's denial of his application for social security disability benefits. The claim for judicial review was referred to Magistrate Judge Steven D. Pepe and, on June 21, 2006, Magistrate Judge Pepe issued a 38-page Report and Recommendation recommending that plaintiff's motion for summary judgment be granted, defendant's motion for summary judgment be denied, and that the matter be remanded to the Commissioner for further proceedings to: receive into the record an update from Stephen's treators and possibly a report from a consulting examiner as to Stephen's residual functional capacity; allow for a further credibility assessment consistent with SSR 96-7p; facilitate a consistent hypothetical question to a vocational expert; allow for an explanation of a gap in the medical record from

June 19, 2000 through January 2, 2002, and; consider a possible closed period of disability. Magistrate Judge Pepe also recommends that the matter be assigned to a different ALJ on remand. No timely objections have been filed by either party. See 28 U.S.C. § 636(b)(1); E.D. Mich. L.R. 72.1(d)(2). Having reviewed the Report and Recommendation,

The court hereby ACCEPTS the June 21, 2006 Report and Recommendation as its own. Plaintiff's motion for summary judgment is hereby GRANTED. Defendant's motion for summary judgment is hereby DENIED. This matter is hereby REMANDED to the Commissioner for further proceedings consistent with the recommendations and analysis set forth in the Report and Recommendation. It is hereby ORDERED that the matter be assigned to a different ALJ on remand.

SO ORDERED.

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

Dated: July 17, 2006

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record on July 17, 2006, by electronic and/or ordinary mail.

s/Josephine Chaffee
Secretary/Deputy Clerk